

10/051,335**REMARKS**

In order to expedite prosecution, Applicants' representative initiated a personal interview with the Examiners. Applicants and Applicants' representative would like to thank Examiner Rampuria and Examiner Khari for their courtesy in conducting the interview and for their assistance in resolving issues. A summary of the interview discussion follows.

Claim 49 stands rejected under 35 U.S.C. § 112, second paragraph because the Examiner alleged that "the limitation 'boundary information' is unclear as to what is the boundary information, is it size of the instructions or something in that nature." This rejection is respectfully traversed for the following reasons. Specifically, as discussed during the interview, Applicants position is that the term "boundary information" as set forth in claim 49 is definite. Indeed, claim 49 expressly describes that a value of a boundary information bit indicates whether the instruction should be processed together with a succeeding instruction. That is, the claimed "boundary information" embodies information indicating whether the instruction should be processed together with a succeeding instruction.

Based on the foregoing, it is respectfully submitted that claim 49 is definite. Accordingly, it is respectfully requested that this rejection be withdrawn.

Claims 31-35 (it is believed that the Examiner intended to reject claims 49-53) stand rejected under the judicially created doctrine of obviousness-type double patenting over claims 1 and 2 of USP No. 6,834,336. Solely in order to expedite prosecution, a terminal disclaimer is being submitted herewith without prejudice to the merits, thereby obviating this rejection. Accordingly, it is respectfully requested that the double-patenting rejection be withdrawn.

10/051,335

Claims 49-53 stand rejected under 35 U.S.C. § 103 as being unpatentable over Rafe et al. in view of Grafe et al.. Claim 49 is independent. This rejection is respectfully traversed for the following reasons.

Claim 49 recites in pertinent part, “wherein each instruction has a boundary information bit, *a value of which indicates whether the instruction should be processed together with a succeeding instruction*” (emphasis added). The Examiner alleged that the “start bit” in Fig. 2 of Rafe et al. corresponds to the “boundary information bit” of claim 49. As discussed during the interview, Applicants respectfully disagree with the Examiner’s interpretation because the “start bit” of Rafe et al. merely indicates where a given instruction starts but does not indicate whether a succeeding instruction will be processed together with said given instruction. In Rafe et al., the length of each instruction is variable and the “start bit” is used to simply indicate the length of each instruction, but is completely unrelated to boundary information that can indicate whether the instruction should be processed together with a succeeding instruction.

As provided during the interview, the following hypothetical illustrates the fundamental difference between Rafe et al.’s “start bit” and the claimed “boundary information bit” (noting that the hypothetical does not exemplify actual processing protocols). Assuming a group of instructions A, B, and C are stored in a room and execution timing of those instructions are based on when the door to the room opens for a given instruction to exit to the execution unit, Rafe et al.’s “start bit” merely indicates the timing of the door’s opening for exit of each instruction (thereby indicating the length of each instruction) so that, for example, the door would open to allow instruction A out, then B, then C, in that order, with the start bit for each instruction indicating their respective door opening times. In contrast, the claimed “boundary information bit” can indicate whether instruction A, B, and/or C can be executed together (i.e., exiting the

10/051,335

door at the same door opening timing). In Rafe et al., only one instruction is executed per/door-opening whereby the "start bit" indicates the timing of that execution in view of the length of the respective instruction.

The Examiner is directed to MPEP § 2143.03 under the section entitled "All Claim Limitations Must Be Taught or Suggested", which sets forth the applicable standard for establishing obviousness under § 103:

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. (citing *In re Royka*, 180 USPQ 580 (CCPA 1974)).

In the instant case, the pending rejection does not "establish *prima facie* obviousness of [the] claimed invention" as recited in claim 49 because the proposed combination fails the "all the claim limitations" standard required under § 103.

Under Federal Circuit guidelines, a dependent claim is nonobvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplimatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as claim 49 is patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also patentable. In addition, it is respectfully submitted that the dependent claims are patentable based on their own merits by adding novel and non-obvious features to the combination.

Based on the foregoing, it is respectfully submitted that all pending claims are patentable over the cited prior art. Accordingly, it is respectfully requested that the rejection under 35 U.S.C. § 103 be withdrawn.

10/051,335

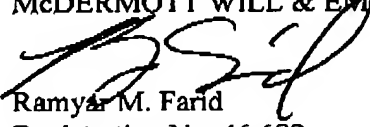
CONCLUSION

Having fully responded to all matters raised in the Office Action, Applicants submit that all claims are in condition for allowance, an indication for which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP


Ramya M. Farid
Registration No. 46,692

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 RMF:men
Facsimile: 202.756.8087
Date: March 13, 2006
WDC99 1209035-1.067471.0017

**Please recognize our Customer No. 20277
as our correspondence address.**